



APPLICATION ACCEPTED: July 3, 2014
BOARD OF ZONING APPEALS: October 1, 2014
TIME: 9:00 a.m.

County of Fairfax, Virginia

September 24, 2014

STAFF REPORT

SPECIAL PERMIT SP 2014-DR-136

DRANESVILLE DISTRICT

APPLICANTS/OWNERS: Henry S. Ensher

STREET ADDRESS: 7010 Tyndale St., Mclean, 22101

SUBDIVISION: Rosemont

TAX MAP REFERENCE: 30-3 ((13)) 39

LOT SIZE: 13,249 square feet

ZONING DISTRICT: R-3

ZONING ORDINANCE PROVISIONS: 8-914 and 8-918

SPECIAL PERMIT PROPOSAL: To permit an accessory dwelling unit and a reduction of minimum yard requirements based on error in building location to permit addition to remain 29.9 feet from front lot line.

STAFF RECOMMENDATION: Staff recommends approval of SP 2014-DR-136 with adoption of the proposed development conditions contained in Appendix 1.

It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Excellence * Innovation * Stewardship
Integrity * Teamwork * Public Service

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/



It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals. A copy of the BZA's Resolution setting forth this decision will be mailed within five days after the decision becomes final.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505.**

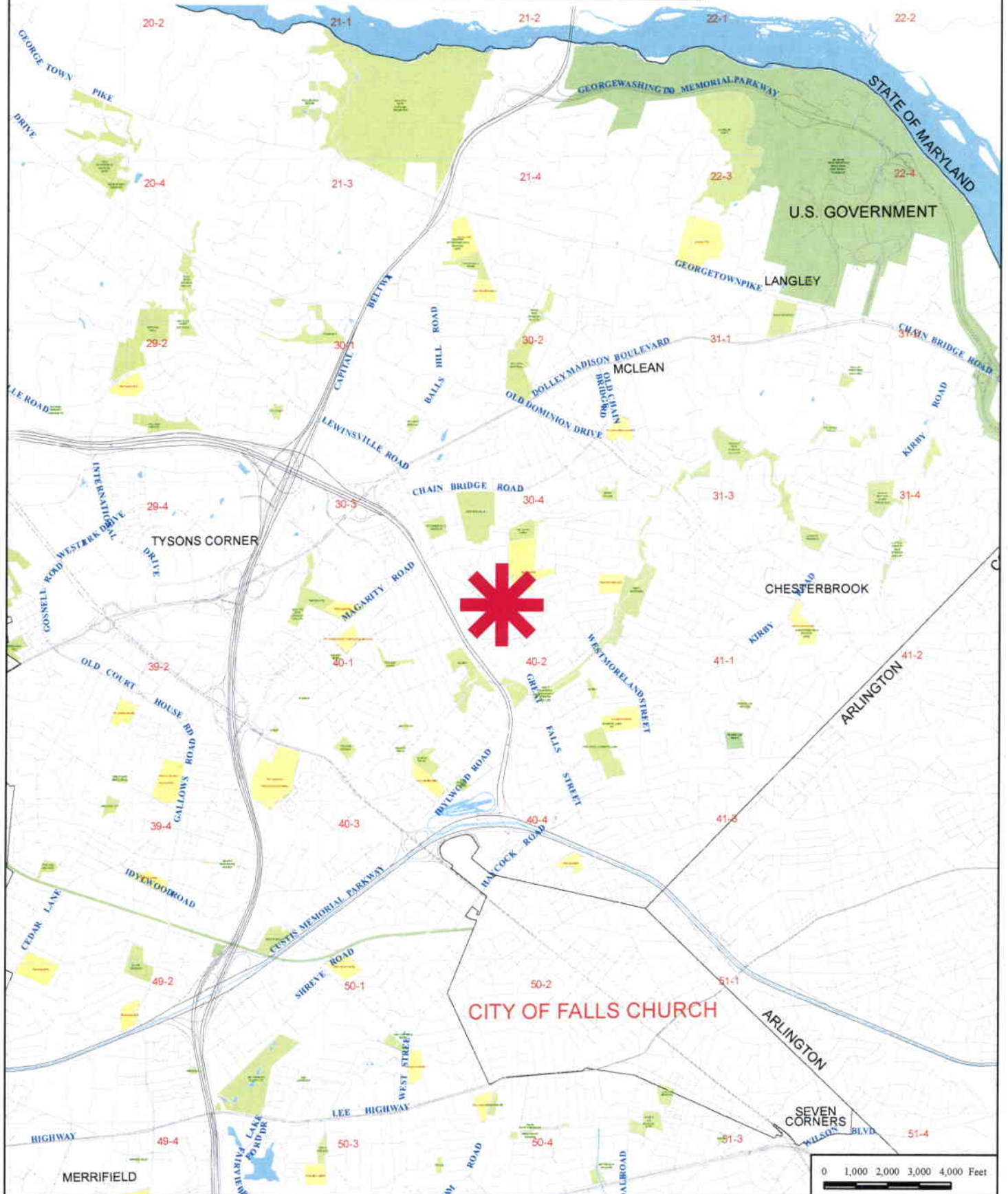


Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

Special Permit

SP 2014-DR-136

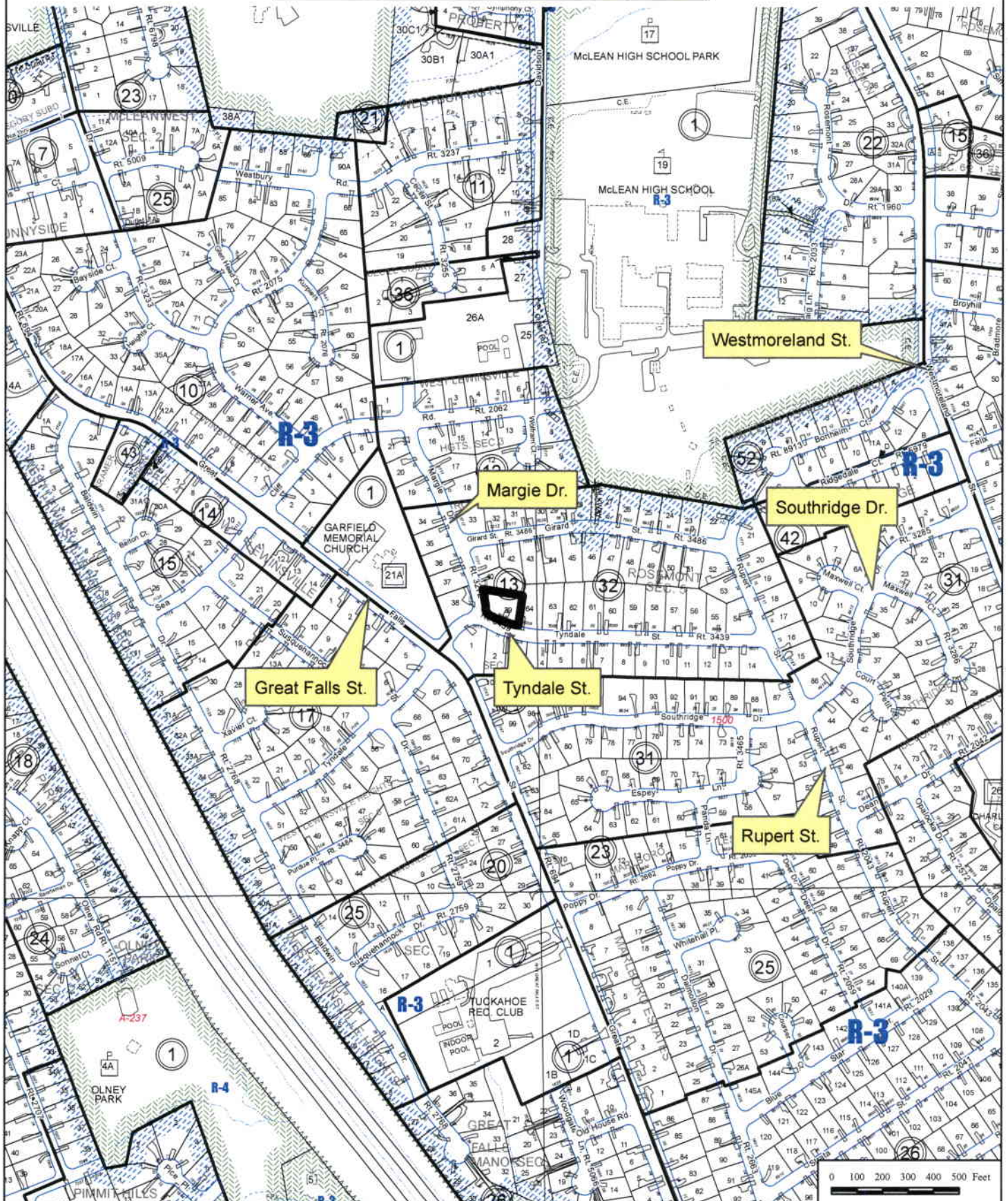
HENRY S. ENSHER



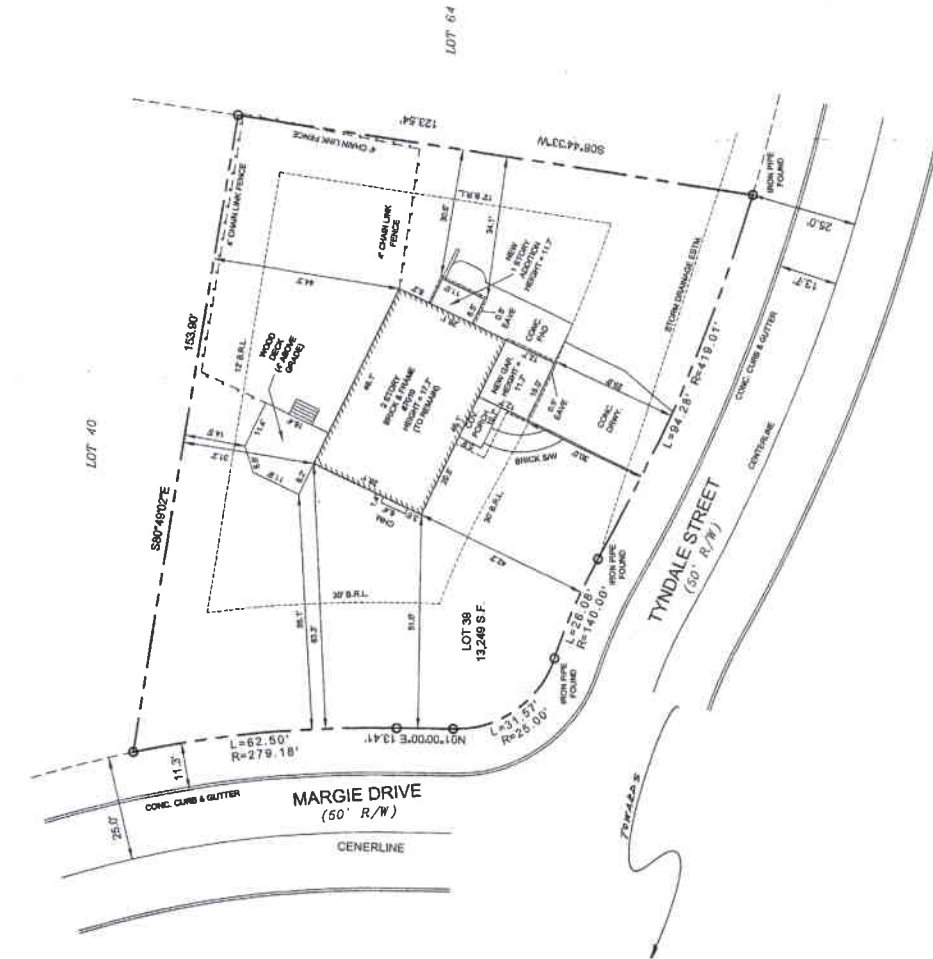
Special Permit

SP 2014-DR-136

HENRY S. ENSHER



ADDRESS: 700 TYNDALE STREET
MCCLEEN, VA 22001



CEA TABULATION:

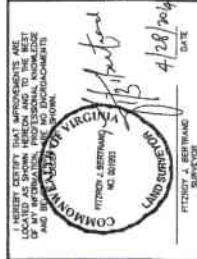
PRIMARY STRUCTURE AREA: 2,591 S.F.
NEW GARAGE AREA: 1,975 S.F.
NEW ADDITION AREA: 2,854 S.F.

FAR: 2.854 / 13,248 = 22%

NOTES:

1. THIS PLAT WAS PREPARED WITHOUT BENEFIT OF A TITLE REPORT.
2. THIS PROPERTY IS ZONED R-1.
3. TOTAL SQUARE FOOTAGE OF LOT: 13,248 S.F.
4. TOTAL AREA WITHIN ZONE R-1: 13,248 S.F.
5. THERE ARE NO PROPOSED IMPROVEMENTS LOCATED WITHIN THE RIGHT-OF-WAY.
6. THERE ARE NO PROPOSED IMPROVEMENTS LOCATED WITHIN THE RIGHT-OF-WAY.
7. NEW STRUCTURE BUILT: 2013
8. NO PORTION OF THE PROPERTY SHOWN ON THE SURVEY LIES WITHIN A SPECIAL FLOOD HAZARD AREA, AS DESCRIBED ON THE FLOOD INSURANCE RATE MAP 51059C 0165 E, EFFECTIVE DATE: SEPTEMBER 17, 2010. FOR THE COMMUNITY IN WHICH THE SUBJECT PROPERTY IS LOCATED, THE SUBJECT PROPERTY LIES WITHIN ZONE X; AREAS DETERMINED TO BE OF SPECIAL FLOOD HAZARD.
9. THERE ARE NO UTILITY EASEMENTS ON THE SUBJECT PROPERTY WITH A WIDTH OF 25' OR MORE.
10. THERE IS NO EVIDENCE OF A CEMETARY OR BURIAL GROUND LOCATED ON THE SUBJECT PROPERTY.

RECEIVED
Department of Planning & Zoning
JUL 01 2014
Zoning Evaluation Division



SPECIAL PERMIT PLAT
LOT 38, SECTION 6
ROSEMONT
LIBER: 12044 FOLIO: 1720
SPRINGFIELD COUNTY, MISSISSIPPI
SCALE: 1"=20'

REAL ESTATE SURVEYORS & DEVELOPERS, LLC
www.reseco.com
LAUREL LAKES EXECUTIVE PARK
LAUREL, MARYLAND 20707
TEL: 207-985-3100 FAX: 207-985-3108

ENSHER RESIDENCE - 7010 TYNDALE STREET, MCLEAN VIRGINIA 22101
PHOTOGRAPHS OF ENTIRE PROPERTY SHOWING STRUCTURES AND YARD AREAS

RECEIVED
Department of Planning & Zoning

DEC 11 2013

Zoning Evaluation Division

FRONT VIEW



ENSHER RESIDENCE – 7010 TYNDALE STREET, MCLEAN VIRGINIA 22101

SIDE VIEW

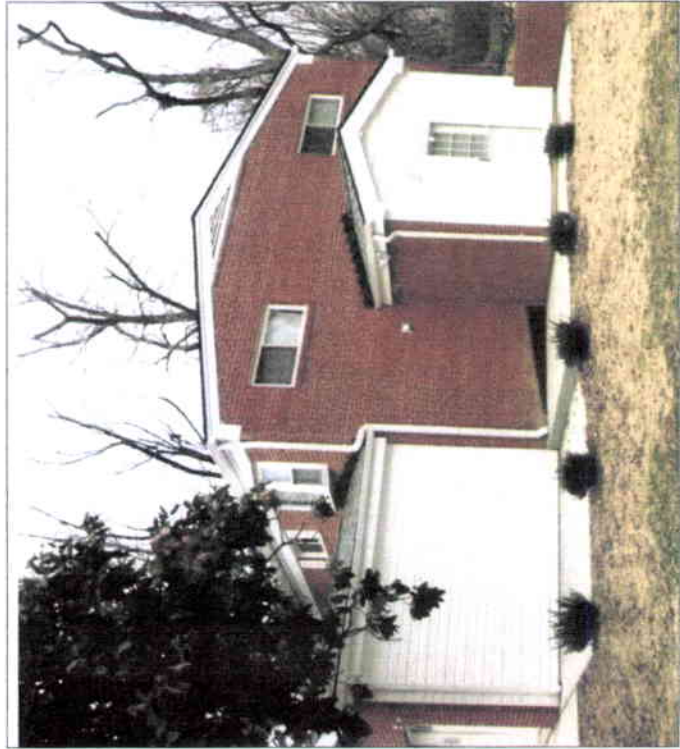
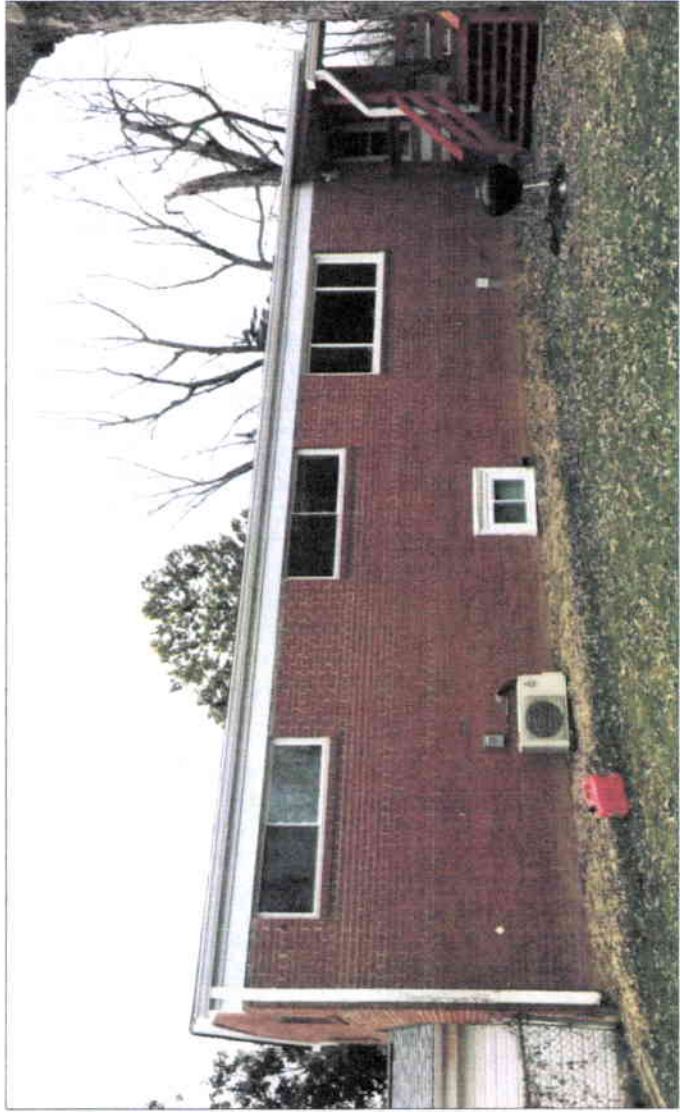


ENSHER RESIDENCE – 7010 TYNDALE STREET, MCLEAN VIRGINIA 22101
PHOTOGRAPHS OF ENTIRE PROPERTY SHOWING STRUCTURES AND YARD AREAS

REAR VIEW



ENSHER RESIDENCE – 7010 TYNDALE STREET, MCLEAN VIRGINIA 22101
PHOTOGRAPHS OF ENTIRE PROPERTY SHOWING STRUCTURES AND YARD AREAS



ENSHER RESIDENCE – 7010 TYNDALE STREET, MCLEAN VIRGINIA 22101
PHOTOGRAPHS OF ENTIRE PROPERTY SHOWING STRUCTURES AND YARD AREAS

SIDE VIEW



ENSHER RESIDENCE - 7010 TYNDALE STREET, MCLEAN VIRGINIA 22101
PHOTOGRAPHS OF ENTIRE PROPERTY SHOWING STRUCTURES AND YARD AREAS

SIDE VIEW



ENSHER RESIDENCE – 7010 TYNDALE STREET, MCLEAN VIRGINIA 22101
PHOTOGRAPHS OF ENTIRE PROPERTY SHOWING STRUCTURES AND YARD AREAS

VIEW FROM PORCH



ENSHER RESIDENCE – 7010 TYNDALE STREET, MCLEAN VIRGINIA 22101
PHOTOGRAPHS OF ENTIRE PROPERTY SHOWING STRUCTURES AND YARD AREAS

SIDE VIEW



7010 Tyndale Street, Mclean VA 22101

Ensher Residence Existing photos



REAR VIEW

SPECIAL PERMIT REQUESTS

The applicant is seeking approval of two special permit requests. The first request is to allow an accessory dwelling unit on the first floor of an existing single family detached dwelling. The second request is to allow a reduction of minimum yard requirements based on error in building location to permit an addition to remain 29.9 feet from a front lot line.

A copy of the special permit plat entitled "Special Permit Plat, Lot 39: Section 5, Rosemont," prepared by Fitzroy J. Bertrand, L.S., of Real Estate Surveyors & Developers, LLC, dated January 22, 2014 and revised through July 2, 2014, is included in the front of the staff report.

A more detailed description of the proposal is provided on page two.

CHARACTER OF THE SITE AND SURROUNDING AREA

The 13,249 square foot lot contains a two story brick single family dwelling. A roofed porch exists at the entrance to the dwelling, and a concrete walkway connects this entrance to the asphalt driveway. The driveway provides vehicular access to Tyndale Street and leads to a one car garage attached to the dwelling. A four foot tall above-grade wooden deck is located in the front yard (outside of the front yard setback) and rear yard attached to the dwelling, and a portion of the rear yard is enclosed by a four foot tall chain link fence. The lot is flat with a grassed lawn and has mature trees in the rear and side yards.

The subject property is east of Great Falls Street and the Dulles Toll Road. The subject property and surrounding parcels are zoned R-3 and developed with single family detached dwellings.

	Zoning	Use
North	R-3	Single Family Detached Dwelling
East	R-3	Single Family Detached Dwelling
South	R-3	Single Family Detached Dwelling
West	R-3	Single Family Detached Dwelling



Figure 1. Lot location

BACKGROUND

Fairfax County Tax Records indicate that the single family dwelling was constructed in 1961, and the property was purchased by the applicant in July, 2001.

A building permit for the one story garage addition and the one story mudroom addition along with the garage conversion into living space with a bedroom and wet bar was approved and obtained on August 8, 2013. Building permits for the related plumbing, gas, and electric were also approved. The permit for plumbing was issued August 28, 2013; the permit for electric was issued September 10, 2014; and the permit for mechanical and gas was issued February 20, 2014. These permits can be found in Appendix 4. The existing stove has not yet been turned on or plugged in, as the applicant is waiting for the determination of this special permit case.

Since the adoption of the Zoning Ordinance, the Board of Zoning Appeals has heard one similar application on a surrounding property. The case is listed in Appendix 4.

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit for an accessory dwelling unit within the first floor of the existing single family dwelling. The proposed accessory dwelling unit is approximately 464 square feet, which is 18% of the total gross floor area of the existing dwelling (which is 2,590 square feet). The accessory dwelling unit would contain a bedroom, a bathroom, and a kitchenette.

Upon approval of the special permit, the son of the homeowners will reside in the accessory dwelling unit. Their son has medical issues that make it difficult to climb the stairs to the second story of the home, where all of the existing bedrooms are currently located. Locating a dwelling unit on the first floor of the home will reduce the risk of injury to their son. As such, the son is eligible to reside in an accessory dwelling unit under the provisions of Par. 5B (2) of Sect. 8-918 of the Zoning Ordinance.

The accessory dwelling unit can be accessed via the main entrance of the home located in the front of the structure. Also, there is a side entrance that connects an existing mudroom to the proposed kitchenette. One parking space exists in the garage, and four parking spaces exist in the concrete driveway. The resident of the ADU does not have a car. Therefore, adequate parking exists in the current driveway and garage for all of the residents of the dwelling.

In addition, the existing garage of the single family dwelling is located in error, and as a part of this special permit application, the applicant requests a reduction of minimum yard requirements based on error in building location to permit the addition to remain 29.9 feet from front lot line. The required front yard for a dwelling in an R-3 zoning district is 30 feet; the applicant requests a reduction of 0.1 foot.

	Structure	Yard	Minimum Yard Required	Existing Location	Existing Reduction	Percentage of Reduction Requested
Special Permit	Garage	Front	30.0 feet	29.9 feet	0.1 feet	0.3%

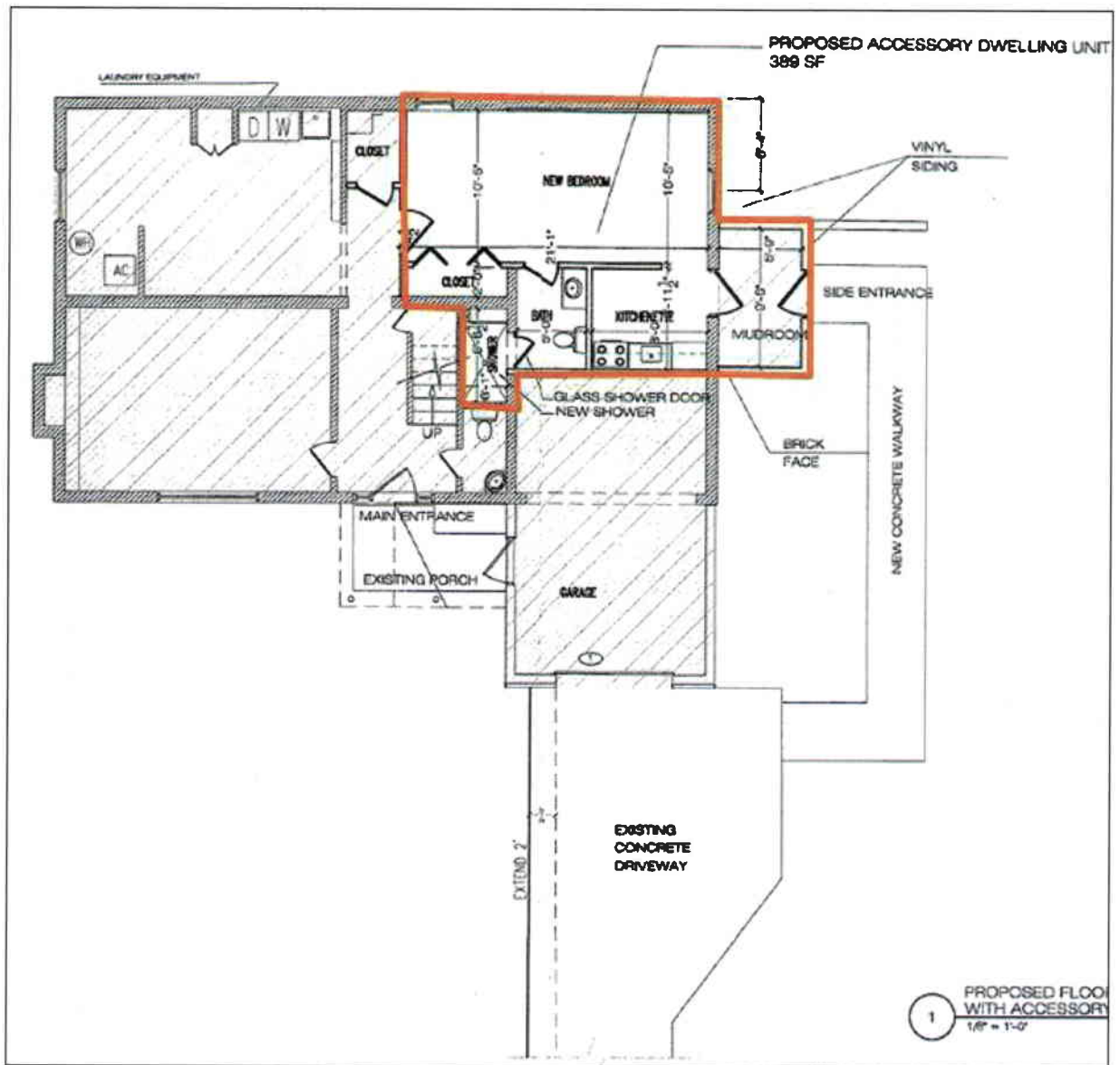


Figure 2. Floor plan layout of Accessory Dwelling Unit

ANALYSIS

Comprehensive Plan Provisions

Plan Area: Area II, Mclean Planning District
Planning Sector: Kirby Community Planning Sector (M3)
Plan Map: Residential uses at 3 dwelling units/acre (du/ac)

Zoning Ordinance Requirements

- *Sect. 8-006* General Special Permit Standards
- *Sect. 8-903* Group 9 Standards
- *Sect. 8-914* Provisions for Reduction of Minimum Yard Requirements Based on an Error in Building Location
- *Sect. 8-918* Additional Standards for Accessory Dwelling Units

This special permit is subject to sections of the Zoning Ordinance as referenced above, a copy of which is included in Appendix 5. Subject to development conditions, the special permit must meet these standards.

8-918 Standards	Provision met?	
	YES	NO
Only permitted in association with a single family detached dwelling unit, and no more than one accessory dwelling unit per single family detached dwelling.	X	
Located within the structure of a single family detached dwelling unit; any entrances shall be located on the side or rear.	X	
The gross floor area shall not exceed 35% of the total gross floor area of the principal unit.	X	
Shall not contain more than two bedrooms	X	
Must meet the following: 1. One dwelling unit shall be owner occupied 2. One dwelling unit must be occupied by a person qualifying as elderly or disabled 3. The accessory dwelling unit may be occupied by no more than 2 people; the principal dwelling unit may be occupied by one family or a group of not more than 4 persons not necessarily related by blood or marriage	X	
Accessory dwelling units intended for a disabled person must provide reasonable access and mobility.	X	
Must provide sufficient parking, as determined by the BZA	X	
Will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood	X	
Must meet applicable regulations for building, safety, health, and sanitation.	X	
Shall be recorded among Fairfax County land records upon approval.	Upon approval	
The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice	X	

CONCLUSION

Staff believes that the request is in conformance with the applicable Zoning Ordinance provisions with the implementation of the Proposed Development Conditions contained in Appendix 1 of the staff report.

RECOMMENDATION

Staff recommends approval of SP 2014-DR-136 for the accessory dwelling unit with adoption of the Proposed Development Conditions contained in Appendix 1 of the staff report. It should be noted that it is not the intent of staff to recommend that the Board, in adopting any conditions, relieve the applicants/owners from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

It should be further noted that the content of this report reflects the analysis and recommendations of staff; it does not reflect the position of the Board of Zoning Appeals.

The approval of this application does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to the application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Building Permit dated July 31, 2013
5. Similar Case History
6. Applicable Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS**SP 2014-DR-136****September 24, 2014**

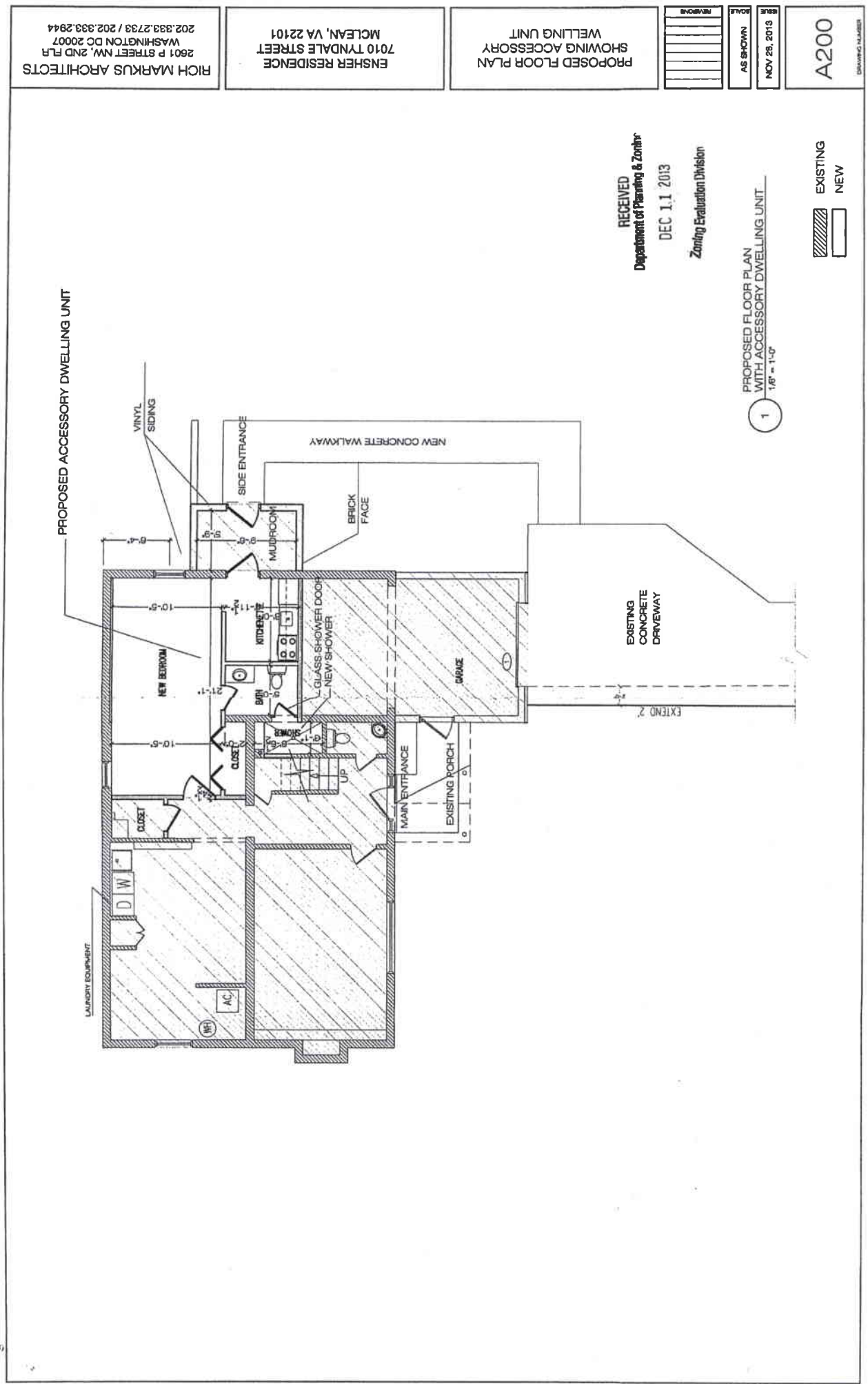
If it is the intent of the Board of Zoning Appeals to approve SP 2014-DR-136 located at Tax Map 30-3 ((13)) 39 to permit an accessory dwelling unit and an existing addition under Section 8-914 and Section 8-918 to the Fairfax County Zoning Ordinance, staff recommends that the Board condition the approval by requiring conformance with the following development conditions.

1. These conditions shall be recorded by the applicant among the land records of Fairfax County for this lot prior to the issuance of a building permit for the accessory dwelling unit. A certified copy of the recorded conditions shall be provided to the Zoning Permit Review Branch, Department of Planning and Zoning.
2. This approval is granted to the applicant only, Henry S. Ensher, and is not transferable without further action of this Board, and is for the location indicated on the application, 7010 Tyndale Street, and is not transferable to other land.
3. A copy of this special permit **SHALL BE POSTED in a conspicuous place in the accessory dwelling unit** and made available to all departments of the County of Fairfax during the hours of operation of the permitted use.
4. The occupants of the principal dwelling and the accessory dwelling unit shall be in accordance with Par. 5 of Sect. 8-918 of the Zoning Ordinance which states in part that one of the dwelling units shall be occupied by a person or persons who qualify as elderly (55 years of age or older) and/or permanently and totally disabled.
5. The accessory dwelling unit shall contain a maximum of 389 square feet, and the layout shall be generally as depicted on the floor plan included as Attachment 1 to these conditions.
6. Provisions shall be made for the inspection of the property by County personnel during reasonable hours upon prior notice and the accessory dwelling unit shall meet the applicable regulation for building, safety, health and sanitation.

7. All applicable permits and final inspections shall be obtained for the kitchen components in the accessory dwelling unit.
8. The accessory dwelling unit shall be approved for a period of five years from the final approval date of the special permit and may be extended for five year periods with prior approval of the Zoning Administrator in accordance with Section 8-012 of the Zoning Ordinance.
9. If the use of the accessory dwelling unit ceases and/or the property is sold or otherwise conveyed, the accessory structure shall be converted to a use permitted by the Zoning Ordinance, or if the property is sold or conveyed, a special permit amendment may be submitted to permit the continued use of an accessory dwelling unit.
10. All parking shall be provided on site.

This approval, contingent on the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards.

Pursuant to Sect.8-015 of the Zoning Ordinance, this special permit shall automatically expire, without notice, six (6) months after the date of approval unless the use has been established as outlined above. The Board of Zoning Appeals may grant additional time to establish the use if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special permit. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.



Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9.10.2013
(enter date affidavit is notarized)

122230

I, RICH MARKUS, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) ☐ applicant
☒ applicant's authorized agent listed in Par. 1(a) below

and that, to the best of my knowledge and belief, the following is true:

- 1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS, and LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS and REAL ESTATE BROKERS**, and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(NOTE: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in BOLD above)
HENRY S. ENSHER	7010 TYNDALE STREET MCLEAN, VA 22101	APPLICANT / TITLE OWNER
MONA A. ENSHER	7010 TYNDALE STREET MCLEAN, VA 22101	TITLE OWNER
RICH MARKUS d.b.a RICH MARKUS ARCHITECTS	2601 P STREET NW 2ND FL WASHINGTON D.C. 20007	AGENT

(check if applicable) ☐ There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

N/A

- * In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page Two

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9.10.2013
(enter date affidavit is notarized)

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(NOTE: Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES, and REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

RICH MARKUS ARCHITECTS
2601 P STREET NW, 2ND FL, WASHINGTON D.C. 20007
202-333-2733

DESCRIPTION OF CORPORATION: (check one statement)

- ☒ There are 10 or less shareholders, and all of the shareholders are listed below.
☐ There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
☐ There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

RICH MARKUS [SOLE PROPRIETORSHIP]

(check if applicable) ☐ There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.* Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page Three

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9.10.2013
(enter date affidavit is notarized)

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

N/A

(check if applicable) ☐ The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. General Partner, Limited Partner, or General and Limited Partner)

N/A

(check if applicable) ☐ There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. *In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed. Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.*

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page Four

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9.10.2013
(enter date affidavit is notarized)

1(d). One of the following boxes **must** be checked:

☐ In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land:

☒ Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on the line below.)

NONE .

(check if applicable) ☐ There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

Page Five

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 9.10.2013
(enter date affidavit is notarized)

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than \$100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (NOTE: If answer is none, enter "NONE" on line below.)

NONE.

(NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)

(check if applicable) ☐ There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.

WITNESS the following signature:

(check one)

☐ Applicant

☒ Applicant's Authorized Agent

RICH MARKUS

(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 10th day of September 2013, in the State/Comm. of Maryland, County/City of Montgomery.

My commission expires: 12/19/2015

[Signature]
Notary Public

June 21, 2013

RECEIVED
Department of Planning & Zoning
AUG 21 2013
Zoning Evaluation Division

To Whom It May Concern:

We have contracted to convert part of our garage at our home at 7010 Tyndale St McLean 22101 into an apartment for our son Tariq. Tariq has a history of fainting that may be linked to a congenital heart condition that makes it difficult for him to climb the stairs in our house. He also has sub-clinical seizure disorder. All the bedrooms are located on the second floor of our home. Tariq is twenty years old and is diagnosed with autism spectrum disorder and has been under our legal guardianship since he turned 18. Tariq has been a student in Fairfax County Public Schools and private schools since he became of school age. Tariq has been designated as disabled by the Social Security Administrations and receives monthly SSI payments.

The project noted above is therefore being carried out to ensure that the risk of physical injury to Tariq, based on his diagnoses is reduced to the lowest level possible.

For any questions, please call his mother Mona A. Ensher at 703 821 7994 or 703 303-7181.

Sincerely,

Mona A. Ensher

Henry S. Ensher

The proposed Accessory Dwelling Unit will be 464 square feet or 18% of the total square footage of the home.

Henry S Ensher
7010 Tyndale St
McLean, VA 22101

DATE: 30 June 2014
TO: County of Fairfax
Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

FROM: Rich Markus

PROJECT: Special Permit Application – Henry S. Ensher
Reference #: SP 2013-0225

RE: Statement addressing 8-914 standards, paragraph 2, items A-G

Error: Reduction of minimum yard requirement based on error in building location to permit addition at 29.9 ft from front lot line which has a minimum allowable setback of 30 ft . The roof overhead extends 0.1 ft into the allowable setback.

- A. The error is less than 1% of the required and allowable measurement.
- B. Building/property was permitted property and built in good faith and through no fault of the property owner, or was the result of an error in relocation of the building subsequent to issuance of a Building Permit
- C. This reduction will not impair the purpose and intent of this Ordinance
- D. This reduction will not be detrimental to the use and enjoyment of other property in the immediate vicinity
- E. This reduction will not create unsafe condition with respect to both other property and public streets
- F. Building was built per approved Building Permit. Removed non-confirming overhang would result to water drainage problems for the property.
- G. The reduction will not result in the increase in density or floor area ratio from that permitted by the applicable zoning district regulations.

Sincerely,



Rich Markus
Rich Markus Architects

RECEIVED
Department of Planning & Zoning
JUL 01 2014
Zoning Evaluation Division

RICH MARKUS ARCHITECTS**SUBMISSION RESPONSE ITEM 5.00**

DATE: 26 November 2013
TO: County of Fairfax
Department of Planning and Zoning
12055 Government Center Parkway, Suite 801
Fairfax, VA 22035

RECEIVED
Department of Planning & Zoning

FROM: Rich Markus

DEC 11 2013

PROJECT: Special Permit Application – Henry S. Ensher
Reference #: SP 2013-0225

Zoning Evaluation Division

RE: Statement addressing 8-918 additional standards for Accessory Dwelling Unit #1-13

1. There will only be one accessory dwelling unit in the single family detached dwelling unit.
2. The accessory dwelling unit is located within the structure of the single family detached dwelling unit at 7010 Tyndale Street, Mclean VA 22101.
3. The gross floor area of the accessory dwelling unit is 28% of the total gross floor area of the principal dwelling unit.
4. There is only one (1) bedroom in the accessory dwelling unit
5. (A) The owner is living in the principal dwelling unit
(B) The accessory dwelling unit is occupied by the owner's son, Tariq Jeremiah Ensher who is permanently disabled. See attached Social Security Administration income payment summary for Tariq Jeremiah Ensher.
(C) The accessory dwelling unit is only occupied by the owner's son, Tariq Jeremiah Ensher. The Principal dwelling unit is occupied by the owner Henry S. Ensher and wife Mona A. Ensher.
6. The accessory dwelling unit one (1) uninterrupted entrance and accessibility and usability of one (1) toilet room.
7. Existing parking is sufficient for the Ensher family as they have recently remodeled their home to expand their garage area.
8. The accessory dwelling unit is added within the owner's existing principal dwelling unit, therefore, it will not constitute change of modify or disrupt the predominant character of the neighborhood.
9. The accessory dwelling unit meets the applicable regulations for building, safety, health and sanitation.
- 10-13. The owner shall comply with the additional standard #10 through #13 of the Fairfax County Zoning Ordinance for Accessory Dwelling Unit.

Sincerely,


Rich Markus
Rich Markus Architects

COVER SHEET TEMPLATE
BUILDING PERMIT ZONING REVIEW

Tax Map: 0303 13 0039

Address: 7010 TYNDALE ST

Suite:

Floor:

Review Date: 07/31/2013

Tenant Name:

Building Permit No.: 132070263

Printed on 7/31/2013 3:12:29PM

**Building Permit
Zoning Review**

*This document does not reflect the final
Building Permit approval.*

7/31/13 3:12:29PM

Bldg Permit #:

132070263

MULTIPLE WORK PERMIT

Address: 7010 TYNDALE ST
MC LEAN VA 22101-5070
Bldg: N/A Floor: Suite: N/A

Tax Map: 0303 13 0039

Subdiv: ROSEMONT LT 39 SEC 5

3,249.00

Owner: ENSHER HENRY S
7010 TYNDALE ST MCLEAN VA 22101

Phone Day: (999)999-9999 x

Evening:

Contractor:

OWNER IS CONTRACTOR
(999) 999-9999

Type of Work: MULTI WORK

Description of Work: 1 story garage addition/ and 1 story mud room addition/ convert partial existing garage into living space with bedroom with wet bar/

ZPRB Review:

Date

Status

07/30/2013

CVILL1



Problem Recorded: 7/30/13

Problem Resolved

7/31/13

customer needs survey to scale and surveyors stamp
CUSTOMER BROUGHT PLAT TO SCALE

07/31/2013

CVILL1



Zoning Detail Review TAB:

Zoning Dist.	Cluster Subdiv	Exceeds 30%	Height	Wet Bar	2nd Kitchen	ADU Subdiv	Proffer	Setback	Parking Requirement
R-3	N	N	0.00	N	N	N	N	Y	Y

Zoning Use

SFD

Yard/Setbacks:

Structure	Front (A)	Front (B)	Front (C)	Left	Right	Rear
ADDITION 1	30.00	0.00	0.00	0.00	43.00	0.00
ADDITION 2	0.00	0.00	0.00	0.00	31.00	0.00
FRONT ROOF	36.00	0.00	0.00	0.00	0.00	0.00
USE GRP	CNST TYPE		BLDGAREA			
R5	VB		228.00			

DETAILS COMMENTS:

BUILD ROOF ON EXISTING ENTRANCE 5' X 8' (9.5 TALL).

BUILD 1 STORY ADDITION 14.6 X 12.6' (9.5 TALL) TO HOUSE 1 CAR GARAGE.

BUILD ANOTHER 1 ST ADDITION 6.3 X 10.75 (10.75 TALL) TO HOUSE A MUDROOM PER APPROVED PLANS.

Similar Case History

ZAPS - SP - SP 90-D -062

Application Desc ...: REDUCTION TO MINIMUM YARD REQUIREMENTS BASED ON ERROR IN BUILDING LOCATION TO ALLOW ROOFED DECK TO REMAIN 7.0 FT. AND
EAVE TO REMAIN 4.0 FT. FROM SIDE LOT LINE (12 FT. MIN. SIDE YARD REQUIRED)

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.
2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.
3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.
4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.
5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.
6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.
7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.
8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards for All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.
2. All uses shall comply with the performance standards specified for the zoning district in which located.
3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-914 Provisions for Approval of Reduction to the Minimum Yard Requirements Based on Error in Building Location

The BZA may approve a special permit to allow a reduction to the minimum yard requirements for any building existing or partially constructed which does not comply with such requirements applicable at the time such building was erected, but only in accordance with the following provisions:

1. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by ten (10) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia and such plat shall contain the following information:
 - A. Boundaries of entire property, with bearings and distances of the perimeter property lines and of each zoning district.
 - B. Total area of the property and of each zoning district in square feet or acres.
 - C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.
 - D. Location of all existing structures, with dimensions, including height of any structure and penthouse, and if known, the construction date(s) of all existing structures.
 - E. All required minimum yards to include front, side and rear, and a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.
 - F. Means of ingress and egress to the property from a public street(s).
 - G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).
 - H. If applicable, the location of well and/or septic field.
 - I. For nonresidential uses, a statement setting forth the maximum gross floor area and FAR for all uses.

J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. Seal and signature of professional person certifying the plat.

In addition, the application shall contain a statement of justification explaining how the error in building location occurred and any supportive material such as aerial photographs, Building Permit applications, County assessments records, a copy of the contract to build the structure which is in error, or a statement from a previous owner indicating how the error in building location occurred.

2. The BZA determines that:

- A. The error exceeds ten (10) percent of the measurement involved, or
- B. The error is up to ten (10) percent of the measurement involved and such reduction or modification is requested in conjunction with the approval of a special permit for another use or application for a variance on the property, or is in conjunction with another special permit for an error in building location on the property that exceeds ten (10) percent of the measurement involved, and
- C. The noncompliance was done in good faith, or through no fault of the property owner, or was the result of an error in the relocation of the building subsequent to the issuance of a Building Permit, if such was required, and
- D. Such reduction or modification will not impair the purpose and intent of this Ordinance, and
- E. It will not be detrimental to the use and enjoyment of other property in the immediate vicinity, and
- F. It will not create an unsafe condition with respect to both other property and public streets, and
- G. To force compliance with the minimum yard requirements or location regulations would cause unreasonable hardship upon the owner.

- H. The reduction or modification will not result in an increase in density or floor area ratio from that permitted by the applicable zoning district regulations.
- 3. In granting such a reduction under the provisions of this Section, the BZA shall allow only a reduction necessary to provide reasonable relief and may, as deemed advisable, prescribe such conditions, to include landscaping and screening measures, to assure compliance with the intent of this Ordinance.
- 4. Upon the granting of a reduction for a particular building in accordance with the provisions of this Section, the same shall be deemed to be a lawful building.
- 5. The BZA shall have no power to waive or modify the standards necessary for approval as specified in this Section.

8-918 Additional Standards for Accessory Dwelling Units

As established by the Fairfax County Board of Supervisors' Policy on Accessory Dwelling Units (Appendix 5), the BZA may approve a special permit for the establishment of an accessory dwelling unit with a single family detached dwelling unit but only in accordance with the following conditions:

1. Accessory dwelling units shall only be permitted in association with a single family detached dwelling unit and there shall be no more than one accessory dwelling unit per single family detached dwelling unit.
2. Except on lots two (2) acres or larger, an accessory dwelling unit shall be located within the structure of a single family detached dwelling unit. Any added external entrances for the accessory dwelling unit shall be located on the side or rear of the structure.
On lots two (2) acres or greater in area, an accessory dwelling unit may be located within the structure of a single family detached dwelling unit or within a freestanding accessory structure.
3. The gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the total gross floor area of the principal dwelling unit. When the accessory dwelling unit is located in a freestanding accessory structure, the gross floor area of the accessory dwelling unit shall not exceed thirty-five (35) percent of the gross floor area of the accessory freestanding structure and the principal dwelling unit.
4. The accessory dwelling unit shall contain not more than two (2) bedrooms.
5. The occupancy of the accessory dwelling unit and the principal dwelling unit shall be in accordance with the following:
 - A. One of the dwelling units shall be owner occupied.
 - B. One of the dwelling units shall be occupied by a person or persons who qualify as elderly and/or disabled as specified below:
 - (1) Any person fifty-five (55) years of age or over and/or
 - (2) Any person permanently and totally disabled. If the application is made in reference to a person because of permanent and total disability, the application shall be accompanied by a certification by the Social Security

Administration, the Veterans Administration or the Railroad Retirement Board. If such person is not eligible for certification by any of these agencies, there shall be submitted a written declaration signed by two (2) medical doctors licensed to practice medicine, to the effect that such person is permanently and totally disabled. The written statement of at least one of the doctors shall be based upon a physical examination of the person by the doctor. One of the doctors may submit a written statement based upon medical information contained in the records of the Civil Service Commission which is relevant to the standards for determining permanent and total disability.

For purposes of this Section, a person shall be considered permanently and totally disabled if such person is certified as required by this Section as unable to engage in any substantial gainful activity by reasons of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of the person's life.

- C. The accessory dwelling unit may be occupied by not more than two (2) persons not necessarily related by blood or marriage. The principal single family dwelling unit may be occupied by not more than one (1) of the following:
 - (1) One (1) family, which consists of one (1) person or two (2) or more persons related by blood or marriage and with any number of natural children, foster children, step children or adopted children.
 - (2) A group of not more than four (4) persons not necessarily related by blood or marriage.
- 6. Any accessory dwelling unit established for occupancy by a disabled person shall provide for reasonable access and mobility as required for the disabled person. The measures for reasonable access and mobility shall be specified in the application for special permit. Generally, reasonable access and mobility for physically disabled persons shall include:
 - A. Uninterrupted access to one (1) entrance; and
 - B. Accessibility and usability of one (1) toilet room.

7. The BZA shall review all existing and/or proposed parking to determine if such parking is sufficient to meet the needs of the principal and accessory dwelling units. If it is determined that such parking is insufficient, the BZA may require the provision of one (1) or more off-street parking spaces. Such parking shall be in addition to the requirements specified in Article 11 for a single family dwelling unit.
8. The BZA shall determine that the proposed accessory dwelling unit together with any other accessory dwelling unit(s) within the area will not constitute sufficient change to modify or disrupt the predominant character of the neighborhood. In no instance shall the approval of a special permit for an accessory dwelling unit be deemed a subdivision of the principal dwelling unit or lot.
9. Any accessory dwelling unit shall meet the applicable regulations for building, safety, health and sanitation.
10. Upon the approval of a special permit, the Clerk to the Board of Zoning Appeals shall cause to be recorded among the land records of Fairfax County a copy of the BZA's approval, including all accompanying conditions. Said resolution shall contain a description of the subject property and shall be indexed in the Grantor Index in the name of the property owners.
11. The owner shall make provisions to allow inspections of the property by County personnel during reasonable hours upon prior notice.
12. Special permits for accessory dwelling units shall be approved for a period not to exceed five (5) years from the date of approval; provided, however, that such special permits may be extended for succeeding five (5) year periods in accordance with the provisions of Sect. 012 above.
13. Notwithstanding Par. 5 of Sect. 9-012, any accessory dwelling unit approved prior to July 27, 1987 and currently valid may be extended in accordance with the provisions of this Section and Sect. 012 above.